

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JUSTIN DUFOE, on Behalf of Himself
and All Others Similarly Situated,

Lead Plaintiff,

v.

DRAFTKINGS INC., JASON D.
ROBINS, JASON K. PARK, and
MATTHEW KALISH,

Defendants.

Case No. 1:23-cv-10524-DJC

DECLARATION OF ANDREW S. DULBERG

I, Andrew S. Dulberg, hereby declare under penalty of perjury:

1. I am a member in good standing of the bar of the Commonwealth of Massachusetts and this Court, and am a partner of Wilmer Cutler Pickering Hale and Dorr LLP. I am one of the counsel representing DraftKings Inc. (“DraftKings”), Jason D. Robins, Jason K. Park, and Matthew Kalish (collectively, “Defendants”) in the above-captioned action. I respectfully submit this Declaration in support of Defendants’ Motion to Dismiss the Amended Complaint and to place certain documents before this Court.

2. Attached hereto as Exhibit 1 is a true and correct copy of an article published on Esports.net, titled “DraftKings NFT Marketplace – Are DraftKings NFTs Worth It?” This article, which is referenced in Paragraph 119 of the Amended Complaint, can be found on the internet at <https://www.esports.net/crypto/draftkings-nft/>.

3. Attached hereto as Exhibit 2 is a true and correct copy of a transcript of a YouTube video, titled “Reignmakers 101: Your Guide To Getting Started,” which was posted by DraftKings

on August 11, 2022. This video, which is referenced in Paragraph 108 of the Amended Complaint, can be found on the internet at <https://www.youtube.com/watch?v=oCZFTwDPwy0>.

4. Attached hereto as Exhibit 3 is a true and correct copy of an article published on August 30, 2022 on FTNdaily.com, titled “DraftKings Reignmakers: What It Is, How To Play.” This article, which is referenced in Paragraph 117 of the Amended Complaint, can be found on the internet at <https://www.ftndaily.com/articles/FTN/60994/draftkings-reignmakers-what-it-is-how-to-play>.

5. Attached hereto as Exhibit 4 is an excerpt from a true and correct copy of a screenshot of the Discord channel “Locker Room” chatroom showing messages posted by users on September 17, 2022. A message posted on the channel on September 17, 2022 at 10:53 AM by user afmarko99 is referenced in Paragraph 131 of the Amended Complaint.

Executed on September 25, 2023 in Boston, Massachusetts.

/s/ Andrew S. Dulberg

Andrew S. Dulberg

CERTIFICATE OF SERVICE

I, Andrew S. Dulberg, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) dated September 25, 2023.

/s/ Andrew S. Dulberg

Andrew S. Dulberg